

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
DONG YUAN, and
XUANHAO XU,
on behalf of themselves and others similarly situated,

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 11/16/2022

Plaintiffs,

-against-

& HAIR LOUNGE INC.,
& HAIR LOUNGE II INC.,
MIN FEI CHEN
a/k/a Wendy Chen,
CHEN LUNG LU
a/k/a Edison Lu,
JOHN DOE #1-10, and
JANE DOE #1-10,

18 Civ. 11905 (AT)

ORDER

Defendants.

ANALISA TORRES, District Judge:

The Court has learned information that raises questions about whether Defendants have made false statements to the Court. By letter dated August 11, 2021, defense counsel informed the Court that Defendant, Chen Lung Lu a/k/a Edison Lu, would be in Taiwan in the fourth quarter of 2021 to allegedly visit a dying family member. ECF No. 123. By letter dated November 10, 2021, defense counsel informed the Court that Lu would “not be available for trial in the first quarter of 2022” because he was in “Taiwan visiting his father.” ECF No. 136. On October 12, 2022, Lu provided a sworn declaration stating that he “went back to China” “[e]arlier this year,” ECF No. 154-1 ¶ 3; “was not able to book [a] flight to return to the United States” “[d]ue to the strict Chinese COVID regulations,” *id.* ¶ 4; and was therefore “unable to return to the United States” for the trial scheduled for November 21, 2022, ECF No. 154 at 1, *see also* ECF No. 154-1 ¶¶ 4–7. On November 9, 2022, Lu filed a second sworn declaration stating that he and Defendant, Min Fei Chen a/k/a Wendy Chen (together, the “Individual Defendants”), “[were] in Taiwan taking care of [his] father . . . [and would be] unable to return to the United States for the trial.” ECF No. 163-2 ¶ 5. On that date, Chen also submitted a sworn declaration stating that, “[e]arlier this year, [she] traveled to Taiwan with . . . Lu . . . to visit his father,” and that they “both now live in Taiwan and could not return to the U.S. for the trial.” ECF No. 163-1 ¶¶ 3–4. On November 15, 2022, in defiance of this Court’s orders, *see, e.g.*, ECF No. 169 at 2, Lu and Chen did not appear at the final pretrial conference. At the conference, defense counsel again represented that Lu and Chen would not appear at trial. The Court reiterated its prior orders that all Defendants—Lu, Chen, & Hair Lounge Inc., and & Hair Lounge II Inc. (& Hair Lounge Inc. and & Hair Lounge II Inc., together, the “Corporate Defendants”), were required to appear at trial.¹

¹ On October 13, 2022, the Court directed Lu to return to the United States for trial. ECF No. 155. On November 13, 2022, the Court ordered that “all parties—Plaintiffs, the Corporate Defendants, and the Individual Defendants—are

Shortly after the final pretrial conference, the Court overheard discussions between the parties' attorneys concerning Lu and Chen's whereabouts. Plaintiffs' counsel stated that an individual claimed to have seen defense counsel's "client" in Chinatown in New York in late October.² Defense counsel responded that his client is in Taiwan.

The Court conducted its own investigation of social media accounts connected with Defendants. After a brief review, the Court identified a customer review dated October 31, 2022, on the Yelp website for a hair salon called “& PLUS Salon” owned by Edison L.,³ stating as follows:

 **Hansika S.**
New York, NY
✉ 28 ⚒ 70 📸 55

⭐ ⚒ ⚒ ⚒ ⚒ 10/31/2022

I am a long, long time customer so it really pains me to write this review. I always get my haircuts from Edison and had been waiting for him to come back from China for what feels like a year. In the meantime I had gone in to get a haircut by someone else but didn't love it. I kept following up with them on Instagram on when Edison was due to return and was ecstatic when I was told he will be back in October. I made an appointment and on the day of I reached out again to double confirm. Only then did they tell me that Edison was not going to be available that day. Something about his flight. Okay no problem, things happen. I reschedule. The only day they could accommodate me was on Halloween. I don't live in the city and I knew traffic would be an absolute nightmare but left work early and got there at 6 sharp. After 15 mins I was told Edison is running late. Okay. I waited. A whole hour later, no show. The sheer unprofessionalism and lack of respect for my time has made this experience so sour. I'm on my way back home, no haircut and spent 3 hours in traffic for nothing. Do better.

Useful Funny Cool

& PLUS Salon, YELP (accessed on Nov. 16, 2022), <https://www.yelp.com/biz/and-plus-salon-new-york>. This review claims that Lu had “come back from China” “in October” and was scheduled to give a haircut to a client “on Halloween”—October 31, 2022.

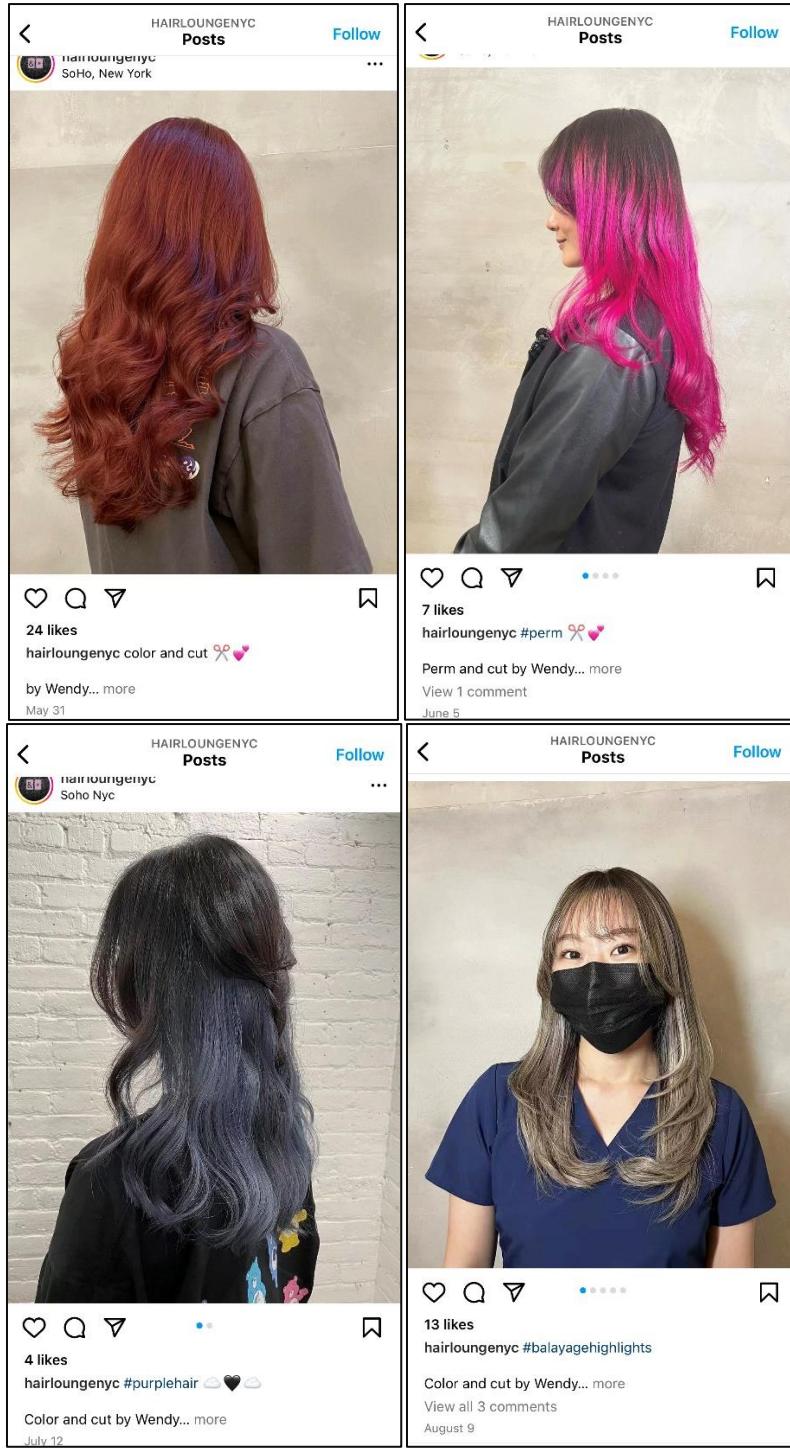
The Court also reviewed the Instagram page for “& PLUS SALON,” which includes pictures of individuals sporting haircuts and coloring treatments performed by “Wendy” between at least May and August 2022. & PLUS SALON (@hairlougenyc), INSTAGRAM (accessed on Nov. 16, 2022), <https://www.instagram.com/hairlougenyc/>.

required to appear at trial.” ECF No. 169 at 2.

² It is not clear which client—Lu or Chen—the individual was referring to.

³ “Edison L.” is also listed as the owner for hair salon “&Hair Lounge” on Yelp. &Hair Lounge, YELP (accessed on Nov. 16, 2022), <https://www.yelp.com/biz/and-hair-lounge-new-york-8>.

Below are some of the relevant images:



These images suggest that Chen was in New York at least in May, June, July, and August 2022.

These social media posts suggest that Lu and Chen's representations that they are "unable to return to the United States for trial" are false. Lu and Chen made sworn statements to the Court under penalty of perjury. ECF Nos. 154-1, 163-1–163-2. These social media posts contradict defense counsel's representations to the Court that his clients have been in Taiwan since late 2021 and/or most of 2022, that they are unable to leave Taiwan, and that they are unable to attend trial.

Defendants Lu, Chen, & Hair Lounge Inc., and & Hair Lounge II Inc. are required to appear for trial on **November 21, 2022**, at **9:00 a.m.** in Courtroom 15D of the United States Courthouse, 500 Pearl Street, New York, New York 10007. If Defendants fail to comply with this Order, the Court shall commence contempt proceedings.

SO ORDERED.

Dated: November 16, 2022
New York, New York



ANALISA TORRES
United States District Judge